

FILED
02-12-2019
CIRCUIT COURT
DANE COUNTY, WI
2019CV000084

EXHIBIT H

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH 15

THE LEAGUE OF WOMEN VOTERS OF WISCONSIN,
DISABILITY RIGHTS WISCONSIN, INC.,
BLACK LEADERS ORGANIZING FOR COMMUNITIES,
GUILLERMO ACEVES, MICHAEL J. CAIN, and
JOHN S. GREENE, Cas

Case No. 19-CV-84

Plaintiffs,

Case Code 30701 & 30704

v.

DEAN KNUDSON, JODI JENSEN, JULIE M. GLANCEY,
BEVERLY GILL, ANN S. JACOBS, MARK L. THOMSEN,
MEAGAN WOLFE, and TONY EVERS,

Defendants.

**AFFIDAVIT OF JOHN S. GREENE IN SUPPORT OF
PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION**

STATE OF WISCONSIN)
COUNTY OF DANE)

I, John S. Greene, being duly sworn on oath, depose and state as follows:

1. I am an adult resident of the State of Wisconsin with my principal residence located at 1926 Keyes Avenue, in the City of Madison, Dane County, Wisconsin. I have personal knowledge and belief as to the matters set forth below.

2. I am domiciled in Wisconsin and am and have been a Wisconsin taxpayer during all relevant times for purposes of this lawsuit. I am concerned with the lawful

allocation and efficient use of public funds and maintain an interest in environmental, justice, and governance issues in Wisconsin.

3. I served as an Assistant Attorney General for the State of Wisconsin at the Wisconsin Department of Justice (“DOJ”) for more than 25 years, including extensive work in the areas of environmental law, consumer protection, and criminal appeals. Among other things, I was personally involved in the development and enforcement of settlement agreements, the enforcement of statutes and administrative rules, the defense of agency decisions, and the application of guidance documents and policies in litigation.

4. During my tenure at DOJ, I served under four Governors and five Attorneys General, of varying political parties and with varying priorities.

5. I believe that the December 2018 Extraordinary Session of the Legislature was unconstitutionally convened and that all legislation and actions—including the adoption of 2017 Wisconsin Act 369 and the appointment of individuals to various boards, councils, and commissions, and advisory committees—that occurred during that session are illegal, unenforceable, and void.

6. I believe the provisions of 2017 Wisconsin Act 369 affecting State agency administrative rules, guidance documents, and policies will undermine consistency in the administration of State agency programs and the training of State agency staff, because I anticipate many guidance documents will not be brought into compliance with these provisions within the six-month period they mandate and will be subject to rescission. As a result, State agencies will be precluded by law from using or relying on these

documents, impairing their efficiency in administering those provisions of Wisconsin law they are charged with enforcing. In addition, State agencies will be required to expend significant taxpayer funds to review and modify existing guidance documents for compliance with 2017 Wisconsin Act 369. These provisions will impose additional costs on State agencies, which will cause pecuniary loss to me as a taxpayer.

7. I believe that I will suffer a pecuniary loss and be injured as a Wisconsin taxpayer as a result of the unlawful disbursement of tax revenues to pay salaries, benefits, per diems, and expense reimbursements to individuals serving on various State authorities, boards, councils, and commissions who were not lawfully appointed to those positions.

8. I believe I will suffer a pecuniary loss and be injured as a Wisconsin taxpayer by Sections 35 and 80 of 2017 Wisconsin Act 369, which eliminate judicial deference to certain agency interpretations, decisions, and orders. These provisions will create uncertainty, encourage litigation, and result in increased costs to administrative agencies and the Department of Justice, which is tasked with representing administrative agencies.

9. I believe I will suffer a pecuniary loss and be injured as a Wisconsin taxpayer by Section 27 of 2017 Wisconsin Act 369, which, as summarized by the Legislative Fiscal Bureau, mandates that “DOJ must deposit all settlement funds into the general fund” and provides that for settlement “monies to be appropriated as directed by the court or settlement agreement, the Legislature would need to enact legislation.” *Id.* at

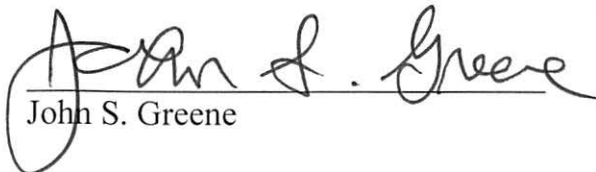
16. As a taxpayer and based on my experience as a former Assistant Attorney General, I anticipate that, by precluding the Attorney General from committing the State to specific uses of settlement funds through settlement agreements, including, for example, providing restitution to consumers harmed by violations of the State's consumer protection laws, this provision will prevent the Attorney General from entering into settlements financially advantageous to the State and will discourage opposing parties from entering into settlement agreements with the State. As a result, I anticipate this provision will increase the State's litigation load and impose additional costs. In addition, I anticipate this provision will result in further injury and pecuniary loss to me as a taxpayer due to the increased costs associated with seeking statutory authorization to expend settlement funds. Such funds are sometimes received in multiple payments over long periods of time on an irregular basis. Should the Legislature fail to enact legislation implementing the terms of a settlement, the settlement could be voided—even years after the fact—resulting in costly additional litigation by the Attorney General and additional losses on the part of the State.

10. I believe I will suffer a pecuniary loss and be injured as a Wisconsin taxpayer by Sections 5, 7-8, and 28-29 of 2017 Wisconsin Act 369, which authorize the Legislature to intervene and participate alongside the Attorney General in litigation involving the State of Wisconsin. *See* Wisconsin Legislative Council, *Amendment Memo: Senate Bill 884, Senate Substitute Amendment 1* at 4-7 (Dec. 11, 2018), <https://docs.legis.wisconsin.gov/2017/related/lcamendmemo/sb884.pdf>). These

provisions will result in increased costs to the State, including the substantial expense of hiring of private counsel to represent legislative entities when they seek to intervene in litigation. Based on my experience as an Assistant Attorney General, I anticipate that these provisions will also result in injury and pecuniary loss to me as a taxpayer due to the increased costs associated with making litigation involving State statutes and regulations more complex and more expensive.

11. I believe I will suffer a pecuniary loss and be injured as a Wisconsin taxpayer by Section 30 of 2017 Wisconsin Act 369, which requires the Attorney General to consult with the Legislature before settling any litigation involving the State, even in those instances where the Legislature has not intervened and is not a named defendant. *See id.* at 7-8. I anticipate this requirement will impede and delay settlements by the Attorney General, is likely to deter parties from negotiating settlements with the State, and will likely preclude the State from entering into financially beneficial settlements. Based on my experience as an Assistant Attorney General, I anticipate that this provision will result in injury and pecuniary loss to me as a taxpayer due to the increased costs associated with decreasing the incidence of settlement and increasing costs to the State.

12. I believe that for these and other reasons, 2017 Wisconsin Act 369 will cause me irreparable harm as a taxpayer.


John S. Greene

Subscribed and sworn to before me
this 9th day of January, 2019




Notary Public, State of Wisconsin
My commission expires is permanent